IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 5TH DECEMBER 2006 / 14TH AGRAHAYANA 1928

Crl.MC.No. 3969 of 2006()

AGAINST THE ORDER IN (ST.4611/1999) IN
LP.120/2001 of ADDL.CHIEF JUDICIAL MAGISTRATE, ERNAKULAM

.....

PETITIONER:

K.K.SANTHOSH, AGED 36 YEARS,
S/O. KUTTAPPAN NAIR, KALAPPURAKKAL HOUSE,
ELAVOOR P.O., ANGAMALY.

BY ADV. SMT.R.DYANA

RESPONDENTS:

STATE OF KERALA, REPRESENTED BY
THE PUBLIC PROSECUTOR,
HIGH COURT OF KERALA, ERNAKULAM.

BY PUBLIC PROSECUTOR SRI.K.A.AKBAR

THIS CRIMINAL MISC. CASE HAVING COME UP FOR ADMISSION ON 05/12/2006, THE COURT ON THE SAME DAY PASSED THE FOLLOWING:

R.BASANT, J.

Crl.M.C.NO.3969 OF 2006

Dated this the 5th day of December, 2006.

ORDER

The petitioner faces indictment in a prosecution under Sections 294 and 323 I.P.C. Consequent to non appearance of the petitioner, the case against him has been transferred to the list of Long Pending cases. Initially it was numbered as S.T.4611 of 1999 and now it is pending as L.P.120 of 2001. The petitioner through his counsel submits that the petitioner was not aware of the pendency of the case. He has now come to know of the pendency of the case. He wants honestly to surrender before the learned Magistrate. He apprehends that if he surrenders before the learned Magistrate, he may not be enlarged on bail. In these circumstances, he prays that a direction may be issued under Section 428 to the learned Magistrate to release the petitioner on bail when he surrenders and makes application for bail.

2. It is certainly for the petitioner to appear before the learned Magistrate and explain to the learned Magistrate the circumstances under which he could not earlier appear before the learned Magistrate. The learned Magistrate Must consider

the cause shown on merits and in accordance with law. I have no reason to assume that the learned Magistrate would not consider the application on merits, in accordance with law and expeditiously. Every court must do the same. No special or specific directions appear to be necessary. Sufficient general directions have already been issued in **Alice George v. The Deputy Superintendent of Police** [2003(1) KLT 339].

3. In the result, this Crl.M.C is dismissed. But with the specific observation that if the petitioner surrenders before the learned Magistrate and applies for bail after giving sufficient prior notice to the Prosecutor in charge of the case, the learned Magistrate must proceed to pass appropriate orders on merits, in accordance with law and expeditiously - on the date of surrender itself.

4. Hand over a copy of this order to the learned counsel for the petitioner today itself.

(**R.BASANT, JUDGE)**

rtr/